

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VIASAT, INC., a Delaware corporation,
Plaintiff,
v.
ACACIA COMMUNICATIONS, INC., a
Delaware corporation,
Defendant.

Case No.: 3:16-cv-00463-BEN-JMA

**ORDER ON DEFENDANT'S
APPLICATION FOR AN ORDER
CLARIFYING PAGE COUNT**

[Doc. No. 99.]

Before the Court is Defendant Acacia Communications, Inc.'s ("Acacia") *Ex Parte* Application for an Order Clarifying Page Count related to Viasat Inc.'s February 2, 2018 Motion Papers, or in the Alternative for an Order Granting Acacia Leave to File Oppositions with Additional Pages. (Doc. No. 99.) Plaintiff ViaSat, Inc. ("ViaSat") filed a Response to Acacia's *Ex Parte* Application. (Doc. No. 100.)

On February 2, 2018, ViaSat filed three motions: (1) a Motion for Summary Judgment on Acacia's Counterclaim for Patent Misappropriation, (2) Motion to Exclude Expert Testimony and (3) Motion for Partial Summary Judgment. (Doc. Nos. 89, 95, 98.) Each of these motions was scheduled for hearing on March 5, 2018. ViaSat's Memoranda of Points and Authorities ("P and A") supporting these three motions was 7 pages (Doc. No. 89-1), 25 pages (Doc. No. 95-1), and 25 pages (Doc. No. 98-1)

1 respectively. As a result, ViaSat's Memoranda total 57 pages, 32 pages over what is
 2 permitted by the Court for "all motions noticed for the same motion day." Civ. LR
 3 7.1(h).¹

4 Plaintiffs claim that after receiving the hearing date from the Court, they "assumed
 5 (perhaps wrongly) that the 25-page limit in Local Rule 7.1(h) would apply to each
 6 separate motion." (Doc. No. 100 at 2.) Moreover, ViaSat does not object to Acacia
 7 having 25 pages for each of its oppositions to each of ViaSat's motions. (*Id.*) Acacia
 8 alleges it will be unduly burdened by not having additional pages to respond to the
 9 additional 32 pages in its Oppositions as Acacia is similarly limited for its memoranda
 10 "in opposition to all motions noticed for the same motion day." (Doc. No. 99 at 2.)

11 This Court takes compliance with its Local Rules seriously. As Judge Kozinski
 12 remarked, it has become more common for lawyers to file oversized briefs at the last
 13 minute and "dare us to bounce them." *Cuevas v. Hartley*, 835 F.3d 892, 893 (9th Cir.
 14 2016) (Kozinski, J., dissenting). Courts often accept these briefs because striking them
 15 "knocks the briefing and argument schedule out of kilter," thus causing more trouble than
 16 "putting up with the additional unnecessary pages." (*Id.*) But "[t]his encourages disdain
 17 for our rules and penalizes lawyers . . . who make the effort to comply." (*Id.*)


18 Despite this admonition, the Court will allow ViaSats' oversized memorandum in
 19 this instance. Moreover, the Court further **ORDERS** Acacia may file either a single
 20 opposition brief or three separate opposition briefs not to exceed fifty-seven (57) pages in
 21 total. Going forward, however, ViaSat and Acacia are forewarned, they both MUST
 22 comply with the Local Civil Rules governing the length of briefs unless leave of Court is
 23 granted.

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 26
 27 ¹ Local Civil Rule 7.1(h) sets a presumptive limit of twenty-five (25) pages for any brief
 28 or memorandum in support of a motion unless leave to file excess pages is granted by the
 Judge assigned to hear the motion.

1 **IT IS SO ORDERED.**

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3 Dated: June 25, 2018

4 
5 Hon. Roger T. Benitez
6 United States District Judge